GOVERNMENT OF INDIA
COMMUNICATIONS AND INFORMATION TECHNOLOGY
LOK SABHA

UNSTARRED QUESTION NO:908
ANSWERED ON:09.03.2005
UNWANTED CALLS IN MOBILE PHONES
Kurup Adv. Suresh

Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:

(a) whether the Government has been issued notice by the Supreme Court regarding a petition pertaining to `uncalled for` calls in mobile phones; and

(b) if so, the response of the Government in this regard?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (DR. SHAKEEL AHMAD)

(a) Yes, Sir.

(b) In the petition filed in Supreme Court of India, the petitioner has raised a question of passing on the subscriber information by the Mobile Service Providers to Telemarketing service providers/bank etc. In this respect, the relevant extracts of the `Licence Agreement for provision of Cellular Mobile Telephone Service` and Indian Telegraph Rule pertaining to subscriber information and publication of Telephone Directory are given below:

(i) Extract of Licence Agreement for provision of Cellular Mobile Telephone Service
SCHEDULE-II, Part-II
18.1 Determination of TRAI with regard to publication of telephone service directory containing information of subscribers of Cellular Mobile Telephone Service shall be applicable and binding. 29.3 The Licensee shall be responsive to the complaints lodged by his subscribers.....

SCHEDULE-II, Part-V

31.5 Any dispute, with regard to the provision of SERVICE shall be a matter only between the aggrieved party and the LICENSEE, who shall duly notify this to all before providing the SERVICE. And in no case the LICENSOR shall bear any liability or responsibility in the matter.

SCHEDULE-II, Part-VI

42.2 Subject to conditions contained in these terms and conditions, the LICENSEE shall take all necessary steps to safeguard the privacy and confidentiality of any information about a third party and its business to whom it provides the SERVICE and from whom it has acquired such information by virtue of the SERVICE provided and shall use its best endeavours to secure that:

a) No person acting on behalf of the LICENSEE or the LICENSEE divulges or uses any such information except as may be necessary in the course of providing such SERVICE to the Third Party; and b) No such person seeks such information other than is necessary for the purpose of providing SERVICE to the Third Party.

Provided the above para shall not apply where:

a) The information relates to a specific party and that party has consented in writing to such information being divulged or used, and such information is divulged or used in accordance with the terms of that consent; or b) The information is already open to the public and otherwise known.

42.3 The LICENSEE shall take necessary steps to ensure that the LICENSEE and any person (s) acting on its behalf observe confidentiality of customer information.

(ii) Rule 458 of Indian telegraph Rules, 1951:

Except with the permission of the Telegraph Authority no person shall publish any list of telephone subscribers.

From the above provisions of Licence Agreement and Rule 458 of ITR, 1951, it is evident that sufficient safeguard has been provided

for the subscribers so that their information is not passed on by the Licenced Mobile Operators to the Tele Marketing Service providers/banks etc.